



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,946	07/07/2003	Kevin T. Connelly		6732

7590 06/08/2006
Apollo Sunguard
4487 A Ashton Rd.
Sarasofa, FL 34233

EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,946	CONNELLY, KEVIN T.	
	Examiner	Art Unit	
	Winnie Yip	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2-8 and 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on March 23, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The newly amended claim 16 is directed to a non-elected specie on the merits for the originally presented invention, the claimed invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 16 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

1. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US Patent NO. 5,487,401) in view of Bilotti (US Patent No. 5,678,587) and in view of Kupferman (US Patent No. 5,890,506).

Johnson et al. teaches a shade and rain umbrella combination comprising an umbrella having a shaft (14) and ribs (18) pivotally mounted on a top of the shaft, a shade cover (20) placed over and supported by the ribs and fastened to its peripheral points at ends (28) of ribs, the shade cover being made of water-resistant material with openings for allowing ventilation air to pass through, and a water proof rain cover (36) placed over and connected to the shade cover by fastening means, wherein the rain cover (36) has a size may be substantially same as the shade cover (see Figs. 1 or 14), the rain cover (36) includes a central hole (40) having a grommet (42) being snugly fitted to an upper end portion (32) on the top of the shaft, the rain cover (36) includes strips (48) disposed along a peripheral of the rain cover, each strip has an eyelet (24) being fastened to the end of the rib respectively to provide means for fastening the rain cover to the peripheral points at each ends of the ribs such that the rain cover can be added in the event of rain and removed in sunshine. Although Johnson et al. does not define the shade cover being

Art Unit: 3636

made of fabric mesh material for protection against ultraviolet rays of the sun as claimed, Kupferman teaches a shade and rain umbrella combination comprising a rain cover (24) disposed on the shade cover (22), wherein the shade cover (22) having at least a portion (32) being made of woven mesh fabric for allowing ventilation air passed there through and the rain cover (24) covering the mesh portion for preventing the rain into the mesh portion when used in raining. And, further Bilotti teaches an umbrella formed with a shape cover (46) supported by ribs, and the shade cover (46) being made of woven mesh fabric coated with ultraviolet protecting material to resist the rays of the sun (see col. 4, lines 18-20). It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the umbrella of Johnson, et al. having the shade cover having at least a portion such as the opening being covered by a woven mesh fabric as taught by Kupferman and the woven mesh fabric material having a coat of ultraviolet blocking material as taught by Bilotti for providing an umbrella having a shade cover being specifically made of fabric mesh material with a layer of ultraviolet rays protecting coat for against ultraviolet rays of the sun as claimed to against the UV rays of the sun and allowing ventilation air passed there through at the same time when the umbrella being used in sunshine and can be covered by the removable rain cover thereon.

2. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, et al. '401 in view of Kupferman '506 and Bilotti '587 and as applied to claim 1 above, and further in view of Allee (US Patent No. 6,378,539).

The claims are considered to meet by Johnson et al. modified by Kupferman and Bilotti as explained and applied set forth above rejections except neither of Johnson et al. nor Kupferman nor Bilotti define the umbrella combination including means for clamping the shaft in an upright position on a support. However, Johnson et al. further teach the umbrella having a handle (12) that would be modified in various configuration such as the handle (12) may formed with variety configurations form attaching to

Art Unit: 3636

another structure (see Fig. 16 and 20). In addition, Allee teaches an umbrella (1) comprising a shaft (5), a clamping device providing means for clamping the shaft in an upright position on an support device (9), wherein the clamping device (7') having a C-shaped clamp (33 or 83) providing thread holes (80 and 21' or 99) for receiving the end of the shaft (3) in two different directions. It would have been obvious to one ordinary skill in the art, at the time the invention was made, to modify the umbrella combination of Johnson et al. having covers formed by material as taught by Kupferman and Bilotti and having the handle of the umbrella being modified with a clamping device for clamping the handle of the umbrella in two different orientations as taught by Allee for mounting the shaft of the umbrella in an upright position disposed on different oriented support surfaces.

Response to Argument

3. Applicant's arguments with respect to claims 1, 4, 9, and 16 under U.S.C. 102/103, and specifically to the feature of the shade cover can be removed and added for different uses has been considered. This feature was not specifically and previously claimed. Therefore, this argument is deemed to be moot in view of the new grounds of rejection.

In addition, in response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991). In this case, all references are in the same umbrella art. As discussed above rejection, Johnson et al. and Kupferman both teaches a shade and rain umbrella combination. Kupferman is used to teach the shade cover would be formed by a woven mesh fabric material instead of opening for the solving the same problem of allowing air passed through. And the woven mesh fabric material can be coated with a UV protecting material as claimed invention is taught by Bilotti. It would have been obvious to one ordinary

Art Unit: 3636

skill in the art at the time the invention was made to modify an umbrella with various structural limitations if the modification is obviousness. In view of the amended features, new grounds of rejection is given based on the modification of the references.

ACTION IS FINAL

4. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

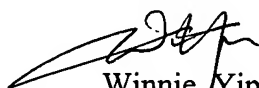
Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

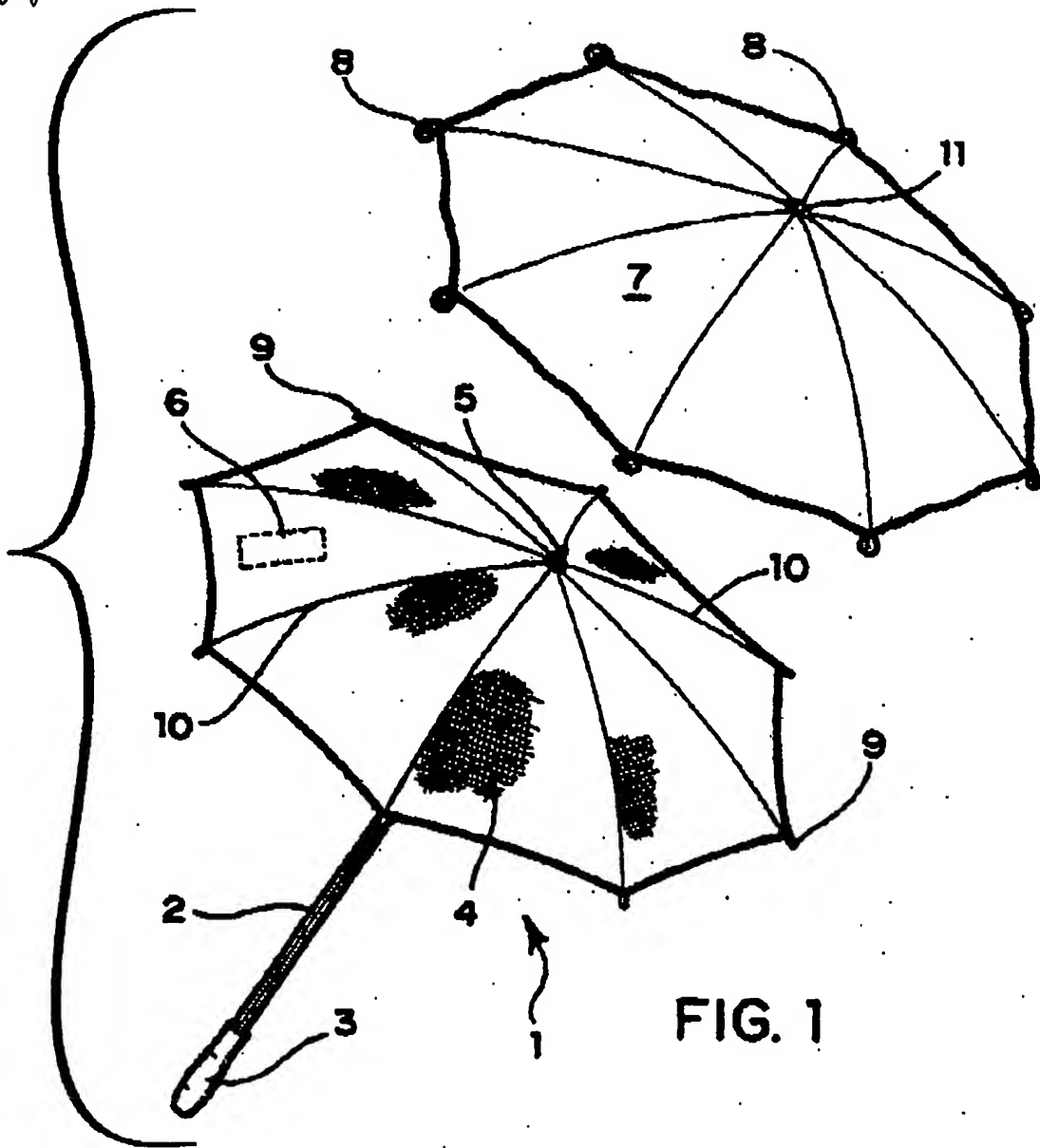
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wy
June 6, 2006

approved 6/5/06



BEST AVAILABLE COPY

FIG. 1